

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

**ORIGINAL APPLICATION NO. 41/2007
JODHPUR THIS IS THE 12th JANUARY, 2009**

CORAM:

**HON'BLE MR. N.D. RAGHAVAN, VICE CHAIRMAN
HON'BLE MR. SHANDAR PRASAD, MEMBER (A)**

A.L.Yadav S/o Sh. Ram Kishan Yadav, aged 61 years, R/o Ashirwad Bhawan, Yadav Mohalla, Village and P.O. Kuwaria, District Rajsamand (Raj) (Ex. Teacher from K.V.R.D. Mines, Chhitorgarh).

For Applicant : Mr. Vivek Shah for Mr. K.K. ^{Shah,} Advocate. Applicant.

VERSUS

(1) Kendriya Vidhyalaya Sangathan, through its Commissioner, 18, Institutional Area, Shaheed Jee Singh Marg, New Delhi-110016.

(2)The Assistant Commissioner, Kendriya Vidyalaya Sangathan Regional Office), 92, Gandhi Nagar Marg, Bajaj Nagar, Jaipur - 302015.

.... Respondents.

For Respondents : Mr. R.S.Sekhawat for Mr. P.S.Bhati, Advocate.

ORDER

[PER SHANKAR PRASAD, MEMBER (A)]

By this O.A., the applicant seeks the following reliefs :-

(a)"The applicant may please be granted selection scale w.e.f. 1.9.89.

(b)That the applicant may please be granted all the consequential benefits after grant of selection scale w.e.f. 1.8.89.

(c) That the applicant may please be awarded interest @ 18% on the total amount becoming payable on grant of selection scale w.e.f. 1.8.89 till date of actual payment.

(d)The applicant may please be awarded costs.

(e)That applicant may please be awarded any other relief which this Hon'ble Tribunal deems just & proper in the case." ✓



2- The applicant was appointed as a Drawing Teacher under the respondents on 07.07.1972. He was granted selection grade w.e.f. 01.08.1977 vide order dated 09.03.1987 (Annex.A/1). The grievance of the applicant is that the respondent Kendriya Vidhyalaya Sangathan (KVS) Organisation, had introduced a Scheme for grant of selection scale vide their letter dated F.5-180/86-UT-1 dated 12.08.1985 but the benefit of same was not extended to him. The applicant represented from time to time for the grant of selection scale mentioned therein but, the same was not granted till the date of his superannuation on 30.09.2006. The applicant is a Member of Scheduled Caste ⁱⁿ category.

3- The respondents in their reply have stated that the said selection scale was to be granted on completion of twelve years service in senior scale and was to be restricted to 20% of those teachers who have been granted senior scale. The name of the applicant appears at Sl.No. 134 of the Seniority List and no junior has been granted the selection scale. The same has been granted only up to Seniority No. 88.

4- We have heard the learned counsels.

5- It appears from a bare perusal of Ministry of Human Resource Development (Department of Education) letter dated 12.08.1985 that the Central Government had accepted the recommendations of Professor D.P. Chhattopadhyaya Commission and re commended revised pay scales. Para 2 (b) regarding grant of senior scale and selection scale reads as under - ⁱⁿ

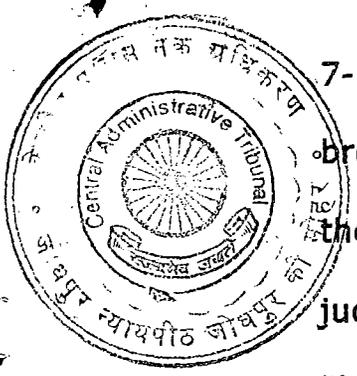


<p>"2(b) Trained Graduate Teachers/ Headmasters of Primary School</p> <p>Senior Scale (after 12 Years)</p> <p>Selection Scale (After 12 Years in Senior Scale and attainment of qualification laid down for PGTs."</p>	<p>Rs.1400-40-1600-50-1650 - EB, 1950-EB-50-2250-EB -50-230-60-2600. Rs. 1640-60-2000-EB-60- 2360-EB-60-2600-75-2750 -EB-75-2900. Rs.2000-60-2300-75-2375 -EB-75-2825-EB-75-3200 -100-3300-EB-100-3500.</p>
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The same was subject to grant of conditions mentioned in Para 3 of the letter.

6- An important question that arises in the present O.A. is, as to whether, the seniority for the grant of selection scale of Rs. 2000-3500 has to be reckoned on the basis of seniority in the senior scale or seniority in the basic grade of the trained graduate teachers. A second question that would arise is, as to what policy has been adopted by the respondents KVS for assigning seniority to persons belonging to Scheduled Castes/Scheduled Tribes, on promotion to post reserved from them. This question would become extremely important in case the seniority for promotion scale has to be reckoned as per the date of promotion to senior scale.

7- Unfortunately, neither the applicant nor the respondents have brought any material on record which would help us answer any of these questions. In any case, the Tribunal exercises the power of judicial review and it would be better if the respondents are given a liberty to examine this question first.



8- We, dispose of this O.A. by giving a direction to the respondents to pass a speaking order on the claim of the applicant having regard to the questions raised above. We wish to make it clear that we have not examined any ^{other} contentions raised by the applicant. We express no opinion on merit too. In case, the respondents come to the conclusion that the applicant is entitled to the selection scale and if he is found eligible, promotion shall be granted to him notionally from the date when his juniors were granted the said benefit. The actual arrears of pay, shall however be confined only for the period commencing from one year before filing of the O.A. to the date of superannuation. The terminal benefits in such case, shall be recomputed and paid. This exercise relating to consideration of the claim of the applicant be completed within two months of the date of receipt of this order and payment of the arrears, if any, be made within one month thereafter. In case, arrears, if admissible, are not paid within three months' period, it shall carry 9% interest from that date to the date of actual payment. The O.A. stands disposed of accordingly. No orders as to costs.

Shankar Prasad
 (Shankar Prasad)
 AM

N.D. Raghavan
 (N.D. Raghavan)
 VC

R/O
Rajivkand
Ranjit Singh
A/c

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Received copy
by 23/1/09
(R.S. Shekhawat)

Part II and III destroyed
in my presence on 7/2/15
under the supervision of
section officer () as per
order dated 07/07/15

Section officer (Records)